

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DALLAS SWANK, et al.,

Plaintiffs,

V.

DEPUY SYNTHES SALES INC., et al.,

Defendants.

CASE NO. C20-1373-LK

**ORDER GRANTING
DEFENDANTS' MOTION FOR
RECONSIDERATION**

Defendants move for reconsideration of this Court’s order granting in-part plaintiffs’ motion to compel because it was based on plaintiffs’ factual misstatement that some components of the Agility **LP** device may have been implanted in Mr. Swank in 2008 rather than only components of the Agility Ankle that were discontinued in 2006. Dkt. 28; *see* Dkt. 26, at 2 (plaintiffs’ reply brief); Dkt. 27 (Order dated March 14, 2022). Defendants are correct that plaintiffs’ motion to compel discovery was granted in-part based entirely on this material misstatement. Defendants’ have demonstrated that Mr. Swank did not receive any components of the Agility **LP** device or any components of the 2011 Warning Letter. Dkt. 29, at 1–2. Moreover, as the Court noted earlier, “[t]here is no dispute that discovery should be limited to ‘the type of Agility Total Ankle Prosthesis that is the subject of this case.’” Dkt. 27, at 1 (quoting Dkt. 23-2, at 15 (plaintiffs’ request for production number one)).

The Court therefore **GRANTS** defendants' motion for reconsideration. Dkt. 28.

Plaintiffs' motion to compel production is **DENIED**. Dkt. 23. Fact discovery is complete and the parties are to proceed with expert discovery.

DATED this 18th day of April, 2022.


BRIAN A. TSUCHIDA
United States Magistrate Judge